IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Subhash Versus State of Rajasthan.

S.B. Criminal Misc. Petition No. 1547/2007 against the order dated 16-08-2007 passed by Additional Chief Judicial Magistrate, Raisinghnagar in FIR No. 319/2007 P.S. Raisinghnagar.

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Date of Order : 03/10/2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. K.R.Bhati, for the petitioner.
Mr. V.R.Mehta, Public Prosecutor for the State.

BY THE COURT:

Issue notice for final disposal. Mr. V.R.Mehta, public prosecutor is directed to accept notice for the respondent State. He accepts the notice. Learned counsel for the petitioner has supplied the copy of criminal misc. petition to public prosecutor.

With the consent of learned counsel for the parties, the petition is finally heard and decided at the admission stage.

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has challenged the order dated

16.08.2007 passed by Additional Chief Judicial Magistrate, Raisinghnagar (for short 'the trial court' hereinafter) in FIR No. 319/2007 Police Station, Raisinghnagar for the offence under Section 41-42 of the Forest Act whereby the trial court dismissed the application filed by the petitioner under Section 457 Cr.P.C. seeking to release the wood seized.

I have heard learned counsel for the parties.

It is contended by learned counsel for the petitioner that the petitioner is the owner of the kikar woods seized. Learned counsel further submits that a notification dated 19.1.1991 has been issued by the State Government which provides that certain woods have been exempted from being forest produce and Shisham, kikar etc. fall in that category and thus according to learned counsel for the petitioner, the wood seized was not a forest produce.

Rule 3 of the Rules, 1957 pertains to exemption from forest produce and provides that in exercise of the powers conferred under the proviso to rule 2 of the Rules, 1957, the State Government exempts transportation of forest produce of the following species for destination within the State of Rajasthan; namely Eucalyptus, Su-Babul, Ardu, Vilaiti Babul, Israeli Babul, Deshi Babul and Shisham.

This Court in Om Prakash Vs. State of Rajasthan,

S.B.Criminal Misc. Petition No. 658/2006 decided on 13.10.2006 on similar facts allowed the petition and released the wood on Supurdginama. In this view of the matter, in my view, the ends of justice would be met if the wood in question is released on Supurdginama to the petitioner.

In the result, the criminal miscellaneous petition is allowed. The order impugned dated 16-08-2007 passed by the trial Court in FIR No. 319/07 P.S. Raisinghnagar to the extent of dismissing the application filed by the petitioner under Section 457 Cr.P.C. seeking release of the woods seized, is set aside and the trial Court is directed to release the wood in question on Supurdginama to the petitioner on furnishing a personal bond in the sum of Rs.30,000/- with a surety in the like amount to the satisfaction of the trial Court.

(H.R. PANWAR), J.

rp.